

# NOTICE

## TOWN OF LOS GATOS ENVIRONMENTAL IMPACT REVIEW

### MITIGATED NEGATIVE DECLARATION

**LEAD AGENCY:** Town of Los Gatos  
Community Development Department  
110 East Main Street  
Los Gatos, CA 95031

**PROJECT TITLE:** 17435 Phillips Avenue  
Architecture and Site Review Application S-14-019

#### PROJECT DESCRIPTION:

The project applicant is requesting Architecture and Site approval to construct a new single-family residence on a 1.45-acre site located on Phillips Avenue, approximately 800 feet east of its intersection with Cypress Way. The proposed residence would be located in the southwestern portion of the site, on the lower elevations of the property adjacent to Phillips Avenue. The proposed residence would be two stories, with one story of living area above the proposed garage. The residence would have a total of 5,166 square feet (s.f.) of living area. The maximum height is proposed to be 33 feet from the lowest point of the residence to the highest part. A breakdown of this area would be as follows:

- |                |                   |
|----------------|-------------------|
| ▪ First Floor: | 3,281 s.f.        |
| ▪ Basement:    | 136 s.f.          |
| ▪ Cellar       | <u>1,749 s.f.</u> |
| Total:         | 5,166 s.f.        |

There would be an additional 884 s.f. proposed to be developed for a garage. Walkways and a deck would extend around the residence.

Access to the residence would be provided from Phillips Avenue at the site's southern boundary by a driveway connection to the roadway. The driveway would consist of interlocking pavers and is proposed to be approximately 40+ feet long and 18 - 25 feet wide. There would be an additional 20-foot wide area along the west side of the driveway and garage that would be covered with pervious pavers.

Site coverage would be approximately 10 percent (6,327 s.f.) of the site's total gross area of approximately 1.45 acres (63,047 s.f.). While much of the lot has slopes over 30 percent, the proposed residence and limits of grading would be located in the southwestern portion of the lot where slopes are less than 30 percent. The proposed driveway would have an average slope of 11 percent.

Existing utilities located in the Phillips Avenue right-of-way would serve the proposed residence. The project would connect to water and sewer utility lines in Phillips Avenue.

#### DETERMINATION:

Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measure listed below has been added to the project, mitigating potential impacts to a less-than-significant level. An Environmental Impact Report will not be required.



## STATEMENT OF REASONS TO SUPPORT FINDING:

### 1. Aesthetics

**Scenic Vistas.** The project site is located on the north side of Phillips Avenue, which extends from west to east along a ravine that drains lower hillsides at the base of the Santa Cruz Mountains. Homes on the north side of Phillips Avenue have views of the mountains to the south and southeast, and of residential development in the valley. The proposed project site is visible in the immediate vicinity of the subject property, primarily from one single-family home at 17450 Phillips Avenue. In addition, screened and/or filtered views of the subject property are available from 71740, 17160, and 17180 Crescent Drive to the north of the site. Likewise, the project site is visible from the section of Phillips Avenue that adjoins the site and approximately 100-foot sections of the roadway to the east and west of the parcel. The proposed home would appear as a two-story home from Phillips Avenue, below the site.

Existing homes on Crescent Drive overlook the site, so the proposed home would not obstruct any scenic views from adjacent properties.

The project site is located within the area subject to the Town's Hillside Development Standards and Guidelines (HDS&G). The HDS&G requires a "view analysis" for any development project with the potential<sup>1</sup> for being visible<sup>2</sup> from any established viewing platform. The closest viewing platform in Los Gatos is located northwest of the site, west of the intersection of the southbound Highway 19 on-ramp and Los Gatos-Saratoga Road (Highway 9). The project site and proposed home site are located on the lower hillside of an intervening ridge (north of the site) that would block views of the project site from this viewing platform. Therefore, the project site would not be visible from any viewing platforms because of intervening topography..

The proposed project would also be subject to design review as part of the Architecture and Site (A&S) review process. As part of this review, the Town will require the residence's design to be consistent with the HDS&G for site planning, development intensity, architectural design, site elements, and landscape design. Pertinent HGS&G visual standards include locating buildings within the Least Restrictive Development Area (LRDA), preserving views of highly visible hillsides, reducing visual impact from viewing platforms, and protecting views of ridgelines. The Town will require story poles as part of the A&S review to determine visibility from viewing platforms as well as from surrounding areas. The proposed residence would not exceed the Town's maximum height limit (35 feet from lowest to highest building points; 25 feet from grade), floor area limit (6,400 s.f. for house and garage), and would avoid slopes over 30 percent.

**Scenic Resources Within a State Scenic Highway.** The closest State Scenic Highway is Highway 9 in the city of Saratoga, approximately 2.5 miles northwest of the subject property. The proposed project site would not disturb or damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. Consequently, the project would have no impact on state scenic highway resources.

**Visual Character.** The proposed project would not substantially degrade the existing visual character of the site or its surroundings. Although views of the site from immediately surrounding areas would change from an undeveloped hillside to a developed residential property, project implementation would not result in a significant change in the overall visual character of the project neighborhood. Since adjacent

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<sup>1</sup> "Potential" is defined as capable of being seen from a viewing platform if trees or large shrubs are removed, significantly pruned, or impacted by construction.

<sup>2</sup> "Visible home" is defined as a single-family residence where 25 percent or more of an elevation can be seen from any of the Town's established viewing platforms.



properties are already developed with single-family residences, views of this developed hillside from areas to the south would not be significantly degraded with development of the project parcel. The home would appear as a two-story home from adjoining areas to the south, which would be generally consistent with the surrounding neighborhood. Views of existing hillside homes along Phillips Avenue and Crescent Drive are mostly obscured either by trees along Phillips Avenue or by extensive hillside tree cover, but a few homes are visible and appear as one- and two-story homes.

Visual impacts associated with proposed grading would be less than significant because the proposed home would be set into the hillside such that the excavated areas would not be visible from surrounding areas. Other impacts associated with proposed grading are discussed under Sections 4 and 6, Biological Resources (tree removal) and Geology (slope stability and erosion), respectively. The existing oak woodland on the project site would be retained, which would help to minimize visibility of the proposed home from areas immediately around the project site. In addition, proposed planting of landscaping around the house would help to eventually screen views of the home from Phillips Avenue.

**Light or Glare.** Outdoor lighting would be provided on the exterior of the home. While there are three existing homes located to the north of the project site, such lighting is not expected to adversely affect any nighttime scenic views of existing homes in the vicinity. Proposed exterior lighting is specifically reviewed as part of Architecture and Site review. To reduce the potential for disturbance due to nighttime lighting, the final plans will need to satisfy Town Code Section 29.10.09035, which prohibits the production of direct or reflected glare (such as that produced by floodlight onto any area outside the project boundary). In addition, General Plan Policy CD-15.7 states that new development proposals shall be reviewed to ensure that outdoor lighting is limited, permitted lighting is of low intensity and for safety purposes, and the effects of indoor lights studied and reduced if found to be excessive.

## 2. Agriculture and Forestry Resources

The 1.45-acre project site is currently undeveloped and the site's agricultural potential is limited by the site's steeply sloping topography, which averages 33 percent. The proposed project would not convert important farmland to non-agricultural uses nor conflict with existing zoning for agricultural or forest land uses. The project would not result in the loss or conversion of forest land to non-forest use. As a result, the project would have no effect on agricultural or forest resources.

## 3. Air Quality Planning

**Air Quality Planning.** The San Francisco Bay Area Air Basin is classified by the Bay Area Air Quality Management District (BAAQMD) as non-attainment for ozone and inhalable particulates (PM<sub>10</sub>). To address these exceedances, the BAAQMD, in cooperation with the MTC and ABAG, prepared the *Bay Area 2005 Ozone Strategy (BAOS)* in September 2005 and *Particulate Matter Implementation Schedule (PMIS)* in November 2005. The PMIS discusses how the BAAQMD implements the California Air Resources Board's 103 particulate matter control measures. The BAAQMD recently adopted the *2010 Bay Area Clean Air Plan*, which updates the BAOS. The consistency of the proposed project with the most recently adopted regional air quality plan, the *CAP*, is determined by comparing the project's consistency with the Los Gatos General Plan. Since the *CAP* is based on population projections of the Association of Bay Area Governments (ABAG) that are based on the Town's General Plan in effect at the time the *CAP* was approved, consistency of the project with the General Plan would indicate consistency with the *CAP*. The project would be consistent with the use and density allowed on the project site by the Los Gatos General Plan, and therefore, the project would be consistent with the *CAP*.

**Air Quality Standards.** The BAAQMD is responsible for attaining and/or maintaining air quality in the San Francisco Bay Area Air Basin (SFBAAB) within Federal and State air quality standards. Specifically, the BAAQMD has the responsibility to monitor ambient air pollutant levels throughout the



Basin and to develop and implement strategies to attain the applicable Federal and State standards. In June 2010, the BAAQMD adopted CEQA thresholds of significance and updated its CEQA Air Quality Guidelines, which provides guidance for assessing air quality impacts under CEQA. However, on March 5, 2012, the Alameda County Superior Court issued a judgment finding that the BAAQMD had failed to comply with CEQA when it adopted the Thresholds. The court issued a writ of mandate ordering the BAAQMD to set aside the Thresholds and cease dissemination of them until the BAAQMD had complied with CEQA. On August 13, 2013, the California Court of Appeal reversed the Alameda County Superior Court judgment that invalidated the BAAQMD's CEQA thresholds of significance. The Court directed that the Superior Court vacate the writ of mandate issued in March 2012, ordering the BAAQMD to set aside its June 2010 resolution (Res. #2010-06) "Adopting Thresholds for Use in Determining the Significance of Projects' Environmental Effects Under the California Environmental Quality Act." Although the California Supreme Court has granted review in the litigation to hear one particular issue of law, the granting of review does not alter the result in the Court of Appeal, though the latter court's decision is no longer a published, citable precedent. And the legal cloud created by the trial court decision no longer exists. Local agencies such as the Town of Los Gatos may rely on the BAAQMD thresholds.

**Significance Thresholds.** Exercising its own discretion as lead agency and similarly to multiple other San Francisco Bay Area jurisdictions, the Town of Los Gatos has decided to rely on the thresholds within the *Options and Justification Report* (dated October 2009) prepared by the BAAQMD. The BAAQMD Options and Justification Report establishes thresholds based on substantial evidence and are consistent with the thresholds outlined within the 2011 CEQA Air Quality Guidelines. Although BAAQMD failed to comply with CEQA before completing its 2010 recommendations, Town staff believes that these recommendations, which are listed as follows, still represent the best available science on the subject of what constitute significant air quality effects in the SFBAAB:

- NO<sub>x</sub> and ROG: 54 pounds/day
- PM<sub>10</sub>: 82 pounds/day
- PM<sub>2.5</sub>: 54 pounds/day

In addition to establishing the above significance thresholds for criteria pollutant emissions, the BAAQMD also recommended (BAAQMD, 2009) the following quantitative thresholds to determine the significance of construction-related and operational emissions of toxic air contaminants from individual project and cumulative sources on cancer and non-cancer health risks:

- Increased cancer risk of >10.0 in a million for individual projects and >100 in a million (from all local sources) for cumulative sources;
- Increased non-cancer risk of >1.0 Hazard Index (Chronic or Acute) for individual projects and >10.0 Hazard Index (from all local sources) for cumulative sources; and
- Ambient PM<sub>2.5</sub> increase: >0.3 µg/m<sup>3</sup> annual average for individual projects and >0.8 µg/m<sup>3</sup> annual average (from all local sources) for cumulative sources.

**Project Emissions.** The BAAQMD prepared screening criteria in both the 1999 and 2011 BAAQMD CEQA Guidelines. These screening criteria were developed by the BAAQMD to indicate the minimum development size (by land use category) at which air pollutant emissions could exceed the above significance thresholds and potentially significant air quality impacts could occur. The 1999 BAAQMD CEQA Guidelines indicated that a project with 320 single-family units was identified as the project size which was likely to result in significant operational air quality impacts. The 2011 BAAQMD Guidelines included the following screening criteria for single-family residential use based on the above thresholds: 325 single-family units for operational emissions and 114 units for single-family residences for construction emissions. The 2011 BAAQMD Guidelines also specified that the project must also meet



two other criteria: (1) the BAAQMD's *Basic Construction Mitigation Measures* must be implemented during construction; and (2) the project does not include demolition, simultaneous occurrence of more than two construction phases, simultaneous construction of more than one land use type; extensive site preparation; or extensive material transport (more than 10,000 cubic yards of soil). With implementation of Mitigation Measure AQ-1, the project would meet these criteria, and the project's air quality impacts would be less than significant.

**Cumulative Air Quality Impacts.** To address cumulative impacts on regional air quality, the BAAQMD has established thresholds of significance for construction-related and operational criteria pollutants and precursor emissions. These thresholds represent the levels at which a project's individual emissions of criteria pollutants and precursors would result in a cumulatively considerable contribution to the SFBAAB's existing air quality conditions. If daily average or annual emissions exceed these thresholds, the project would result in a cumulatively significant impact. Since the project's construction-related and operational criteria pollutant emissions would not exceed BAAQMD significance thresholds, the project's contribution is considered to be less than cumulatively considerable.

**Exposure of Sensitive Receptors.** The California Air Resources Board (CARB) regulates vehicle fuels with the intent to reduce emissions. Diesel exhaust is a serious concern throughout California. The CARB identified diesel engine particulate matter as a toxic air contaminant and human carcinogen. In 2005, the CARB approved a regulatory measure to reduce emissions of toxic and criteria pollutants by limiting the idling of new heavy-duty diesel vehicles, which altered five sections of Title 13 of the California Code of Regulations. The changes relevant to the proposed project are in Section 2485, Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling, which limit idling of a vehicle's primary diesel engine for greater than five minutes in any location (with some exceptions) or operation of a diesel-fueled auxiliary power system within 100 feet of residential areas.

Sensitive receptors are defined as facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples of these sensitive receptors are residences, schools, hospitals, and daycare centers. The CARB has identified the following groups of individuals as the most likely to be affected by air pollution: the elderly over 65, children under 14, athletes, and persons with cardiovascular and chronic respiratory diseases such as asthma, emphysema, and bronchitis. Adjacent residences are considered to be the closest sensitive receptors to project construction. The EMQ Families First facility, a mental health treatment facility for children, youth and families, is located approximately 900 feet west of the proposed home site.

Operation of the proposed residential use would not generate toxic air contaminants (TACs) that would pose a health risks to adjacent or nearby uses. However, during project construction, combustion emissions from operation of off-road construction equipment on the project site would be generated and could expose adjacent and nearby receptors to diesel particulate matter (DPM). Based on screening-level health risk analyses completed for larger projects in town, DPM emissions would not exceed the above significance thresholds for cancer and non-cancer health risks, and the health risks associated with the project's construction-related DPM emissions would be less than significant.<sup>3</sup>

In addition to the above project-related construction-related risk and hazard impacts, the BAAQMD CEQA Guidelines recommend that cumulative health risks be evaluated for affected sensitive receptors in

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<sup>3</sup> Construction of 22 single-family residences on a 1.9-acre site located at 16213 Los Gatos Boulevard was estimated to generate annual average PM<sub>2.5</sub> emissions of approximately 0.08  $\mu\text{g}/\text{m}^3$  (threshold is 0.3  $\mu\text{g}/\text{m}^3$ ), pose an excess cancer risk of 0.0002 for infants (threshold is 10), and pose a non-cancer chronic hazard index of 0.015 (threshold is >1.0). (Town of Los Gatos, 2011. *Initial Study, 16213 Los Gatos Boulevard, Los Gatos, California, Planned Development Application PD-10-004, Negative Declaration ND-10-002*. August.)



the project vicinity. The BAAQMD's stationary source tool indicates that there are no stationary sources within 1,000 feet of the project site. In addition, there are no major roadways (>10,000 ADT) within 1,000 feet of the site. With no significant health risks identified from cumulative sources within 1,000 feet of the site, the project's contribution to health risks from DPM emissions would be less than cumulatively considerable, a less-than-significant impact.

**Odors.** According to the BAAQMD CEQA Guidelines, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. The project would not include any uses identified by the BAAQMD as being associated with odors. No new or unusual sources of nuisance odors would be associated with the proposed residence. Therefore, the project's potential for nuisance odor problems would be less than significant.

During project construction, however, nuisance diesel odors associated with operation of diesel construction equipment on-site (primarily during initial grading phases), but this effect would be localized, sporadic, and short-term in nature. Therefore, temporary impacts from nuisance diesel odors on adjacent residential receptors would be less than significant.

**Mitigation Measures – Air Quality (AQ).** Although the project's construction-related air pollutant emissions would not exceed the BAAQMD's applicable significance thresholds, the following measures are recommended by the BAAQMD to reduce the project's construction emissions to a less-than-significant level:

- AQ-1:** To limit the project's construction-related dust and criteria pollutant emissions, the following BAAQMD-recommended Basic Construction Mitigation Measures shall be included in the project's grading plan, building plans, and contract specifications:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
  - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - h. Post a publicly visible sign with the telephone number and person to contact at the Town regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.



#### 4. Biological Resources

**Special-Status Species, Sensitive Communities and Wetlands, Fish and Wildlife Movement, Corridors, Nursery Sites.** Habitats found on the project site include non-native grassland on two-thirds of the site and oak woodland on a third of the site's area along the property boundaries. The project site supports oak woodland habitat on the northern and southern parts of the property and non-native grassland habitat dominating approximately one acre in the center and on the eastern slopes of the property. Non-native grasses include Italian ryegrass (*Lolium multiflorum*), oats (*Avena sativa*), wild oats (*Avenafatua*), ripgut brome (*Bromus diandrus*), and soft chess (*Bromus hordeaceus*). Oak woodland in this area typically consists of coast live oak (*Quercus agrifolia*), but can include California bay laurel (*Umbellularia californica*). The dense oak canopy cover of the oak woodland area has resulted in extensive leaf litter and duff covering the hillside slopes under the oaks, with negligible shrub and groundcover vegetation present in this area. No riparian habitat or wetlands occur on the project site.

Based on biological surveys conducted on other nearby properties, the site has the potential to support suitable habitat for six special status species (CNPS List 1B: "Plants rare, threatened or endangered in California and elsewhere"): big-scale balsamroot (*Balsamorhiza macrolepis* var. *macrolepis*), Loma Prieta hoita (*Hoita strobilina*), western leatherwood (*Dirca occidentalis*), bent-flowered fiddleneck (*Amsinckia lunaris*), fragrant fritillary *Fritillaria liliacea*) and Hall's bush mallow *Malacothamnus hallii*). The first three species are generally associated with mixed oak woodland habitats. Since the proposed project would not affect oak woodland habitat on the site, these species, if they were to occur on the site, would not likely be affected by the project. The fourth species, bent-flowered fiddleneck, is unlikely to occur here because the closest known occurrence is more than 20 miles away. The last two species are generally associated with either chaparral habitat or serpentine soils and are unlikely to occur at the site since neither chaparral habitat or serpentine soils occur on the site. In addition, disturbance of grassland habitat each spring (when grasses are cut on the lower portion of the site for fire control) further reduce the potential for these species. Based on these factors and the small area affected by proposed home development, the potential for impact on these species would be less than significant.

Within the study area, oak woodland habitat also provides nesting habitat for special-status bird species, as well as many other migratory bird species. Site clearing activities (*e.g.*, grubbing, grading, trenching, and tree removal or pruning) could result in direct or indirect impacts to nesting birds by causing the destruction or abandonment of occupied nests. Direct and indirect impacts on special-status and migratory bird species would be considered significant under CEQA guidelines. Implementation of Mitigation Measures BIO-1a through BIO-1c would reduce significant impacts on special-status and migratory bird species to a less-than-significant level.

Construction activities in the vicinity of occupied bat roosts could result in the destruction of the occupied roosts of special-status bat species. In addition, disturbance during the maternity roosting season could result in potential roost abandonment and mortality of young. Direct and indirect impacts to special-status bat species would be considered significant under CEQA guidelines. Implementation of Mitigation Measures BIO-2a through BIO-2d would reduce significant impacts on special-status bat species to a less-than-significant level.

**Tree and Biological Protection Ordinances.** The Los Gatos Tree Protection Ordinance states that the preferred tree replacement is two or more trees of a species and size designated by the Director of the Parks and Public Works Department. Tree replacement requirements are based on canopy size, which is defined in Table 3-1 of the Ordinance, *Tree Canopy – Replacement Standard*. Tree canopy replacement requirements range from two to six 24-inch box size trees or two 36-inch and/or 48-inch box size trees, depending on the canopy size of the tree to be removed.



The proposed home and landscaping would be confined to the area that is currently bare soil or sparsely covered with non-native grasses. Above and below this area, the existing oak woodland is proposed to remain unaltered. Project plans indicate that all oaks trees located at the northern perimeter of the project site would be retained, as well as seven oak trees below the proposed building site and along Phillips Avenue.

The proposed residential development, including driveway, terrace, patio, retaining walls, walkways, and utility trenches would avoid encroaching upon the driplines of oak trees surrounding the building site. An arborist's report prepared by the Town's consulting arborist (Deborah Ellis) recommends that no soil disturbance occur within the trees' driplines or a minimum distance of at least 10 feet from the trunk, and farther if possible. The arborist's report also recommends that any construction or landscaping work for the project required within the driplines of existing trees should be done by hand. This work should preserve existing roots in undamaged condition as much as possible, with any root cutting performed by hand when roots must be removed. A consulting arborist should be retained to oversee and monitor tree protection. In addition to these provisions, the arborist's report recommends certain revisions to the project's landscaping plans, including the replacement of proposed *Hypericum* groundcover, which has a moderate irrigation water requirement, with a plant species that has a very low or low irrigation requirement.

The arborist's report acknowledges that the project proposes to retain all of the trees on the site, including certain non-native species of trees. However, there is a potential that trees proposed to be retained could be damaged during project construction. With implementation of tree protection measures included in the Ellis report, as required in Mitigation Measure BIO-3, this potential impact would be reduced to a less-than-significant level. The report also identifies one Tasmanian gum (*Eucalyptus globulus*) tree (#6) that should be removed due to its poor condition and its proximity to a proposed path on the project site. Additionally, the arborist report recommends consideration of the removal of an additional Tasmanian gum tree (#2) and three green wattle acacia trees (*Acacia decurrens*, #15, 16, and 21) for removal as well. These trees would not obstruct construction of the project, but are considered poor species for the site and/or are in poor condition. The detailed list of the arborist's recommendations for the protection of trees on the project site, landscape plans, general tree maintenance are included as Attachment 1 of the Initial Study.

**Habitat Conservation Plans.** The proposed project would not be in conflict with any approved local, regional, or state habitat conservation plan.

**Mitigation Measures – Biological Resources (BIO).** To avoid the potential for such an impact, and due to the potential for damage to the mature oak tree adjacent to Phillips Avenue and oak woodland below the proposed home, which are proposed to be retained, as well as the potential for adverse impacts on oaks proposed to be planted, the following measures will be required to reduce potential tree impacts to a less-than-significant level:

- BIO-1:** If tree removal, pruning, or grubbing activities are necessary, such activities should be conducted outside of the breeding season between September 1 and January 31 to avoid impacts to nesting birds.
- a. If project construction begins during the breeding season (February 1 to August 31), preconstruction surveys shall be conducted within the project footprint and a 300-foot buffer, by a qualified biologist no more than two weeks prior to equipment or material staging, pruning/grubbing or surface-disturbing activities. If no active nests are found, no further mitigation is necessary.
  - b. If active nests, i.e. nests with eggs or young birds present, are found, non-disturbance buffers shall be established at a distance sufficient to minimize disturbance based on the



nest location, topography, cover, the nesting pair's tolerance to disturbance and the type/duration of potential disturbance. No work shall occur within the non-disturbance buffers until the young have fledged, as determined by a qualified biologist. Buffer size should be determined in cooperation with the CDFG and the USFWS. If buffers are established and it is determined that project activities are resulting in nest disturbance, work should cease immediately and the CDFG and the USFWS should be contacted for further guidance.

- c. If active nests are found within 300 feet of the project area, a qualified biologist shall be on site to monitor the nests for signs of nest disturbance. If it is determined that construction activity is resulting in nest disturbance, work shall cease immediately and the CDFG and the USFWS shall be contacted.

**BIO-2:** Preconstruction surveys shall be conducted to identify suitable bat roosting habitat including rock outcroppings, snags, rotten stumps, decadent trees with broken limbs, exfoliating bark, cavities, etc. Sensitive habitat areas and roost sites shall be avoided to the maximum extent practicable. If no suitable roost sites or evidence of bat roosting are identified, no further minimization measures are necessary.

If suitable roosting habitat is identified, the following measures shall be conducted:

- a. A qualified biologist shall survey suitable roost sites immediately prior to the removal or grading of rock outcroppings, debris piles, man-made structures, etc.
- b. Removal of suitable tree roost sites shall be conducted by first removing limbs smaller than 3 inches in diameter and peeling away loose bark. The tree should then be left overnight to allow any bats using the tree/snag to find another roost during their nocturnal activity period.
- c. A qualified biologist shall survey the trees/snags a second time the following morning prior to felling and removal.
- d. Trees should be removed during the non-breeding season between September 1 and February 1 to avoid disturbance to maternal colonies or individuals.

**BIO-3:** The project applicant shall be required to implement recommendations made by the Town's consulting arborist, Deborah Ellis, MS, in the report dated June 11, 2014 (as well as any subsequent updates). These recommendations are included in Attachment 1 of the Initial Study.

## 5. Cultural Resources

**Historical Resources.** The project site is vacant with no structures on the property. Therefore, no significant impacts on historic resources would result from the project implementation.

**Archaeological Resources and Human Remains.** The project site is an undeveloped parcel on the north side of Phillips Avenue. A drainage swale on the south side of Phillips Avenue conveys seasonal runoff in the project vicinity; however, there is no indication of a natural stream course for this drainage. While there is typically a higher potential for encountering archaeological resources in areas adjacent to a river or creek, the limited flows in the drainage swale would indicate a very limited potential for historic use of the project area. Although the potential for encountering cultural resources during project construction would be low due to the site's relatively steep topography and limited grading proposed for the site, the potential for such resources cannot be completely eliminated due to the site's proximity to a water source. Therefore, Mitigation Measures CUL-1a through CUL-1d would be required to reduce potential impacts on any undiscovered archaeological resources to less than significant.



**Paleontological Resources.** Paleontological resources are the fossilized remains of plants and animals, including vertebrates (animals with backbones), invertebrates (e.g., starfish, clams, ammonites, and marine coral), and fossils of microscopic plants and animals (microfossils). The age and abundance of fossils depend on the location, topographic setting, and particular geologic formation in which they are found. Fossil discoveries not only provide a historic record of past plant and animal life, but may assist geologists in dating rock formations. A review of records maintained by the University of California Museum of Paleontology in Berkeley indicates that the closest paleontological resources recorded in Santa Clara County occur approximately 15.5 miles west of Los Gatos. These resources were discovered in geologic strata dating from the Late Pliocene and Miocene epochs of the Tertiary Period (65 to 1.8 million years ago).

Geologic mapping for the proposed project indicates the site is underlain by Miocene Monterey Shale deposits. These deposits are of similar age to those containing the recorded paleontological resources. Consequently, the potential for encountering paleontological resources cannot be completely eliminated. Therefore, Mitigation Measure CUL-1e would be required to reduce potential impacts on any potential undiscovered paleontological resources to less than significant.

**Mitigation Measures – Cultural Resources (CUL).** The following measures shall be implemented by the project applicant to reduce the project's potential impact on archaeological resources to a less-than-significant level:

**CUL-1:** The project shall include the following conditions:

- a. In the event that archaeological traces are encountered, all construction within a 50-foot radius of the find shall be halted, the Community Development Director shall be notified, and an archaeologist shall be retained to examine the find and make appropriate recommendations.
- b. If human remains are discovered, the Santa Clara County Coroner shall be notified. The Coroner will determine whether or not the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who shall attempt to identify descendants of the deceased Native Americans.
- c. If the Community Development Director finds that the archaeological find is not a significant resource, work will resume only after the submittal of a preliminary archaeological report and after provisions for reburial and ongoing monitoring are accepted. Provisions for identifying descendants of a deceased Native American and for reburial will follow the protocol set forth in CEQA Guidelines Section 15064.5(e). If the site is found to be a significant archaeological site, a mitigation program shall be prepared and submitted to the Community Development Director for consideration and approval, in conformance with the protocol set forth in Public Resources Code Section 21083.2.
- d. A final report shall be prepared when a find is determined to be a significant archaeological site, and/or when Native American remains are found on the site. The final report shall include background information on the completed work, a description and list of identified resources, the disposition and curation of these resources, any testing, other recovered information, and conclusions.
- e. In the event that a paleontological resource (fossilized invertebrate, vertebrate, plant or micro-fossil) is found during construction, excavation within 50 feet of the find shall be temporarily halted or diverted until the discovery is evaluated. Upon discovery, the Community Development Director shall be notified immediately and a qualified paleontologist shall be retained to document and assess the discovery in accordance with



Society of Vertebrate Paleontology's 2010 Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources, and determine procedures to be followed before construction is allowed to resume at the location of the find. If the Community Development Director determines that avoidance is not feasible, the paleontologist will prepare an excavation plan for mitigating the project's impact on this resource, including preparation, identification, cataloging, and curation of any salvaged specimens.

## **6. Geologic, Soils, and Seismic Hazards**

A review of the Town's hazards maps indicates that the project site has a moderate to high shrink-swell potential, moderate to high erosion potential on the hillsides of the site, low slope stability hazard on the eastern portion of the site and moderate hazard on the western portion of the site (due to slope steepness), high potential for fault rupture, and moderate to low potential for seismic shaking. Debris flow hazards are indicated on the project site. No liquefaction hazard was identified for the site. The Town's Fault Map indicates that concealed fault lineation crosses the project site in an east-west direction, parallel to Phillips Avenue. The Santa Clara County Geologic Hazard Zones map indicates that the project site is located within a Fault Rupture Hazard Zone.

The irregular-shaped project parcel has relatively steep slopes in the upper, northern portion of the site as well as the western perimeter and eastern portion of the site to moderate slope. The site's average slope is calculated to be approximately 33 percent. A minor, natural depression in the southern central part of the site's terrain consists of moderate slopes, and is the proposed location for the single-family residence.

The proposed structure would be cut into the hill slope on the uphill side of the proposed home to accommodate the proposed cellar, house, driveway, decks, and landscaping. Estimated earthwork volumes would be approximately 1,805 cubic yards (c.y.) of cut and 2 c.y. of fill, resulting in a net export of 1,803 c.y. Given the site's sloping topography and the proposed extent of surface disturbance, there would be a potential for erosion hazards if soils were subject to concentrated runoff flows. Town requirements will include provision of an interim and final erosion control plans. Erosion hazards would be moderate, and such measures would reduce potential erosion hazards to a less-than-significant level.

Potential erosion hazards would be less than significant with implementation of the Town's Conditions of Approval, which will include provision of interim and final erosion control plans as well as energy dissipators at storm drain outlets (see Section 9, Hydrology and Water Quality).

A fault investigation was completed by Steven F. Connelly, C.E.G. for the project applicant in August 2013. In addition to the fault investigation, a soils and foundation investigation was prepared for the proposed project by JF Consulting, Inc. (JFC) on January 22, 2014. These studies along with proposed plans were peer reviewed by Town's consulting geotechnical engineers, AMEC Environment & Infrastructure, Inc., on April 18, 2014. Copies of these studies are on file at the Los Gatos Community Development Department, which is located at 110 E. Main Street, Los Gatos. AMEC concurred with JFC investigation's findings that the proposed project is feasible from an engineering geologic standpoint, and that the subject property may be developed as proposed, provided that the recommendations in these investigations are incorporated into the design and construction of the proposed project.

The fault investigation for the project site was performed to determine the potential occurrence of geologic and soils hazards, e.g surface rupture, landsliding, etc., on the site. The analysis included: review of geologic maps and literature; review of historical air photos; review of pertinent nearby reports; site reconnaissance and mapping; logging of two fault exploration trenches; consultation with AMEC; and engineering geologic analysis.



The evaluation of the site's geologic conditions included a review of previous studies and geologic maps that identify and delineate fault traces in the vicinity and on the project site. Past studies have mapped fault traces within the Berrocal and Shannon Fault Zones through the site vicinity. McLaughlin and others show Pleistocene age alluvial fan deposits underlying the eastern portion of the property. A southwest-dipping east-west-trending fault trace within the Berrocal Fault Zone is mapped through the center of the site. The fault is shown on the western portion of the property to separate mid to lower Miocene age Monterey shale to the north from mid Miocene to Oligocene age Temblor Sandstone to the south. Several other fault traces within the Berrocal Fault Zone are identified to the north and south of the property.

The Berrocal fault is part of a northwest-trending belt of faults that lie sub-parallel to the San Andreas fault along the southwest margin of the Santa Clara Valley. The belt of faults is referred to as the Range Front Fault System, which includes the Sargent, Berrocal, Shannon, and Monta Vista faults. The faults are relatively well-defined in hillside terrain where bedrock is shallow or exposed. The faults are concealed beneath Pleistocene and Holocene age sediments covering the bedrock in the alluvial fan terrain to the north and northeast of the Los Gatos hills.

The State of California has not zoned the Berrocal fault or other Range Front faults as potentially active. Geomorphic and seismic data, as well as surficial deformation documented following the 1989 Lorna Prieta earthquake, however, suggests that faults within the Range Front Fault System may be currently active. Extensive damage was noted in the site vicinity, in particular within Los Gatos to the northwest.

In order to evaluate the potential for the presence of a fault trace on the project site, the fault investigation included several reconnaissances of the site and vicinity. Additionally, two fault exploration trenches were excavated roughly perpendicular to the trend of the previously-mapped fault trace. The fault investigation report indicates that relatively coherent, undisturbed, consistent contacts were observed between the soil and bedrock units in both trenches. Offset or thickened and thinned soils were not observed. Evidence of shearing, active faulting, or landsliding also was not observed.

The results of the fault investigation concluded that construction of the proposed new residence is feasible on the subject property. Resistant weathered bedrock underlies the proposed home site at shallow depth and the bedrock should provide good support for the proposed residence. Based upon the review of published geologic maps, site reconnaissance, review of air photos, and subsurface investigation, the fault investigation report states that it is unlikely that landsliding would impact the proposed home site. Additionally, the potential hazard from liquefaction, ground subsidence, lateral spreading, tsunamis, seiches, or flooding to the proposed residence, is negligible.

The evaluation of geological conditions at the project site also included the preparation of a foundation investigation for the proposed project by JF Consulting, Inc. This investigation consisted of: a site reconnaissance and review of the fault investigation report, subsurface exploration (two borings), and laboratory testing on selected soil samples to measure pertinent engineering characteristics. The foundation investigation indicated that neither of the test borings encountered ground water at the site. Soils testing showed that site surficial soils have a moderate potential for expansion. Also, site soils are easily eroded, due to disking and site slopes. The foundation investigation included recommendations for: site preparation, grading, and compaction; treatment of exploration trench backfill; building foundations for residence; retaining walls; basement floor slab construction; and slab-on-grade construction; utility line installation; and site drainage. Implementation of these recommendations, as required in Mitigation Measure GEO-1, would ensure that potential seismic hazards and soils constraints would be maintained at or reduced to a less-than-significant level.

Both of these geologic and soils investigations for the project were reviewed by the Town's consulting geologic engineering firm, AMEC, to ensure all issues related to the site's geologic and soils conditions were addressed. In its review of geologic and geotechnical information for the project site, AMEC provides specific recommendations addressing site preparation and design considerations for the proposed



residence's foundation and treatment of expansive soils. Implementation of Mitigation Measure GEO-2, which requires implementation of recommendations from the AMEC review, would reduce potential geotechnical hazards to a less-than-significant level.

**Mitigation Measures – Geology and Soils (GEO).** The following measure shall be implemented by the applicant to reduce the project's seismic, geologic, and soil impacts to less-than-significant levels:

**GEO-1:** The project design shall incorporate all recommendations provided in JF Consulting, Inc.'s soil and foundation investigation and the fault investigation prepared by Steven F. Connelly, C.E.G, for the proposed project (included as Attachment 2 of the Initial Study) in order to minimize the potential impacts resulting from regional seismic activity and soil engineering constraints.

**GEO-2:** Prior to issuance of the building permit(s), JF Consulting, Inc. shall review the AMEC peer review letter and final construction plans, including the foundation and structural plans, for conformance of these plans with their geotechnical engineering recommendations. JF Consulting, Inc. shall complete and submit a Plan Review letter to the Town.

## 7. Greenhouse Gases

"Greenhouse gases" (so called because of their role in trapping heat near the surface of the earth) emitted by human activity are implicated in global climate change, commonly referred to as "global warming." These greenhouse gases contribute to an increase in the temperature of the earth's atmosphere by transparency to short wavelength visible sunlight, but near opacity to outgoing terrestrial long wavelength heat radiation. The principal greenhouse gases (GHGs) are carbon dioxide, methane, nitrous oxide, ozone, and water vapor. Fossil fuel consumption in the transportation sector (on-road motor vehicles, off-highway mobile sources, and aircraft) is the single largest source of GHG emissions, accounting for approximately half of GHG emissions globally. Industrial and commercial sources are the second largest contributors of GHG emissions with about one-fourth of total emissions.

**Significance Thresholds and Criteria.** Exercising its own discretion as lead agency and similarly to other San Francisco Bay Area jurisdictions, the Town of Los Gatos has decided to rely on the thresholds within the *Options and Justification Report* (dated October 2009) prepared by the BAAQMD. The BAAQMD *Options and Justification Report* establishes thresholds based on substantial evidence and are consistent with the thresholds outlined within the BAAQMD's 2011 CEQA Air Quality Guidelines. BAAQMD's recommended thresholds are as follows:

- Compliance with a Qualified Climate Action Plan or
- Meet one of the following thresholds:
  - 1,100 MT CO<sub>2</sub>e per year; or
  - 6.7 MT CO<sub>2</sub>e per capita per year (residential) / 4.6 MT CO<sub>2</sub>e per service population per year (mixed use)

For purposes of this report, project compliance with the 1,100 MT CO<sub>2</sub>e/year threshold is used as the primary basis to determine significance. The project's consistency with operative goals and policies of the Sustainability Plan that are designed to avoid environmental impacts also is analyzed as a secondary basis for assessing significance. To fully implement the Sustainability Plan, though, the Town Council must take a number of future steps, such as adopting a Green Building Ordinance and developing GreenPoint Rated Building Guidelines. Consistency of any proposed project or program with the Sustainability Plan is one of the criteria used to determine the significance of a project's GHG emissions under CEQA. Because many of the Plan's most stringent aspects will only become fully operational when such future measures are in place, however, compliance with existing Sustainability Plan requirements, by itself, is not sufficient at this time to support a determination that a project's greenhouse gas emissions are less than significant by definition.



**Greenhouse Gas (GHG) Emissions.** Implementation of the proposed project would contribute to long-term increases in greenhouse gases (GHGs) from direct sources (traffic increases and minor secondary fuel combustion emissions from space heating). Development occurring as a result of the proposed project would also result in other indirect operational increases in GHG emissions as a result of electricity generation to meet project-related increases in energy demand. Electricity generation in California is mainly from natural gas-fired power plants. However, since California imports about 20 to 25 percent of its total electricity (mainly from the northwestern and southwestern states), GHG emissions associated with electricity generation could also occur outside of California. Space or water heating, water delivery, wastewater processing and solid waste disposal also generate GHG emissions. Short-term GHG emissions would also be generated by project-related construction activities.

The BAAQMD does not have a quantitative significance threshold for construction-related GHG emissions, but the project's construction-related emissions are expected to have a less-than-significant impact on global climate change based on the project's small size and GHG modeling results done for larger projects.<sup>4</sup> The proposed project would also be subject to the existing CARB regulation (Title 13 of the California Code of Regulations, Section 2485), which limits idling of diesel-fueled commercial motor vehicles, and compliance with this regulation would further reduce GHG emissions associated with project construction vehicles (compliance with idling limits is required under Mitigation Measure AQ-1 in Section 3, Air Quality).

Operational GHG emissions associated with the proposed single-family residences is also expected to be less than significant given the project's small size and GHG modeling results done for larger projects.<sup>5</sup> In the 2011 BAAQMD CEQA Guidelines, the BAAQMD developed screening criteria to indicate the minimum development size (by land use category) at which GHG emissions could exceed the above thresholds and a potentially significant GHG impact could occur. In the 2011 Guidelines, the BAAQMD's operational GHG screening criterion for single-family residences was 56 units, and the proposed project would fall well below this criterion. Therefore, the project's operational GHG emissions are considered to be less than significant.

**Greenhouse Gas Reduction Plans, Policies, and Regulations.** California has passed a number of bills related to GHG emissions and the Governor has signed at least three executive orders regarding greenhouse gases. The Governor's Office of Planning and Research has not yet established CEQA significance thresholds for GHG emissions. GHG statutes and executive orders (EO) include EO S-1-07, EO S-3-05, EO S-13-08, EO S-14-08, EO S-20-04, EO S-21-09, AB 32, AB 341, AB 1493, AB 3018, SB 97, SB375, SB 1078 and 107, SB 1368, and SB X12. AB 32 establishes regulatory, reporting, and market mechanisms to reduced statewide GHG emissions to 1990 levels by 2020. Pursuant to this requirement, the California Air Resources Board (CARB) adopted its Scoping Plan, which contains the main strategies to achieve required reductions by 2020.

In October 2012, the Town of Los Gatos adopted a Sustainability Plan, which outlines communitywide GHG emission reduction measures necessary to achieve the goals of AB 32 for the entire community. The

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<sup>4</sup> GHG modeling completed in November 2013 for an 8-unit residential project on 0.75 acres located at 258 Union Avenue indicated that construction activities would generate up to approximately 63.3 metric tons of CO<sub>2</sub>-equivalents (MT CO<sub>2</sub>e), well below the BAAQMD's operational threshold of 1,100 MT CO<sub>2</sub>e per year, indicating that the project's construction-related GHG emissions would be less than significant. (Source: Town of Los Gatos, 2011. *Initial Study, 258 Union Avenue, Los Gatos, California, Conditional Use Permit Application U-13-012, Negative Declaration ND-13-002*. November.)

<sup>5</sup> GHG modeling completed in November 2013 for an 8-unit residential project on 0.75 acres located at 258 Union Avenue indicated that project operation would generate up to approximately 114 MT CO<sub>2</sub>e, well below the BAAQMD's operational threshold of 1,100 MT CO<sub>2</sub>e per year, indicating that the project's operational GHG emissions would also be less than significant. (Source: Town of Los Gatos, 2011. *Initial Study, 258 Union Avenue, Los Gatos, California, Conditional Use Permit Application U-13-012, Negative Declaration ND-13-002*. November.)



Plan contains measures that are projected to reduce GHG emissions in Los Gatos. However, because the Town has not yet established additional new requirements for discretionary projects that would ensure consistency with GHG reduction measures listed in the Sustainability Plan (i.e., under Measure GB-1, the Town has not yet adopted a Green Building Ordinance that would require projects to achieve energy efficiencies that are 30% greater than those required by the 2008 version of Title 24, nor has it established new requirements under Measure WW-1 regarding watering timing, water-efficient irrigation equipment, water-efficient fixtures, and offsetting demand so that there is no net increase in imported water use). Therefore, only measures that would pertain to the proposed residential project and could be implemented at this time are considered in this report and they are listed as follows:

*Green Building Quantified Measures*

- *GB-2 – GreenPoint Rated Building Guidelines: Require all new and significantly remodeled homes to follow the Town’s adopted GreenPoint Rated Building Guidelines. Significantly remodeled homes include remodels of 50 percent or more of the square footage or wall area of the home, and additions of 50 percent or more of the square footage or wall area of the home.*

*Green Building Non-Quantified Measures*

- *GB-4 Solar Orientation: Require measures that reduce energy use through solar orientation by taking advantage of shade, prevailing winds, landscaping, and sun screens.*

*Energy Conservation Quantified Measures*

- *EC-1 – Energy-Efficient Appliances and Lighting: Require new development to use energy-efficient appliances that meet ENERGY STAR standards and energy-efficient lighting technologies that exceed Title 24 standards by 30 percent.*

*Water and Wastewater Non-Quantified Measures*

- *WW-3 – Bay Friendly Landscaping: Require new development to use native plants or other appropriate non-invasive plants that are drought-tolerant, as described in the Bay Friendly Landscaping Guidelines, available at [StopWaste.org](http://StopWaste.org) and [BayFriendlyCoalition.org](http://BayFriendlyCoalition.org).*

A GreenPoint checklist has been prepared for the project consistent with the Sustainability Plan’s Measure GB-2. With respect to GB-2, the project is estimated to achieve a GreenPoint rating score of 90, which would meet the minimum advisory GreenPoint rating score of 50 points. The GreenPoint checklist considers project design elements, and the proposed project would also be required to comply with energy efficiency requirements of the California Energy Code (Title 24, Part 6 of the California Administrative Code).

Consistent with Measure GB-4, all existing trees on the site would be retained as part of project implementation, and because of the site’s location on a hillside with southern exposure, existing and proposed trees would not shade the house. However, the site’s southern exposure would provide the opportunity to reduce energy demand through the use by installing photovoltaics for renewable energy generation even though photovoltaics are not currently proposed.

Consistency with Measure EC-1 cannot be determined at this time since the project’s appliances and lighting have not yet been specified. Town staff will determine consistency with this measure.

Consistent with Measure WW-3, the proposed landscaping conceptual plan indicates use of native, non-invasive, drought-tolerant plants.

As indicated above, the project would not conflict with the Town’s adopted Sustainability Plan, and therefore, the project’s GHG emissions would have a less-than-significant impact.



## 8. Hazards and Hazardous Materials

The project site is not included on any Hazardous Wastes and Substances Sites List. Since the site is undeveloped and there are no known previous uses on the site that would pose the potential for public health risks or presence of contaminants at the site, the potential for encountering hazardous materials during project construction would be low. Therefore, potential public health risks would be less than significant.

According to the Los Gatos 2020 General Plan's mapping of Wildland Fire Severity Zone, the project site is located in an area designated as Very High Fire Hazard. General Plan Policy SAF-2.1 encourages design and siting of new development in fire hazard areas to minimize hazards to life and property, such as fire preventive site design, access, fire-safe landscaping and building materials, and incorporation of fire suppression techniques. In addition, the project will be required to comply with the following standards contained in the Town's *Hillside Development Standards and Guidelines* (January 2004) to minimize fire hazards:

- *Building locations shall minimize exposure to wildfires.*
- *A landscape plan shall be provided and will be reviewed by the Town staff for consistency with the Fire Department's recommended plant list. The landscape plan shall create defensible space around the home, and if there is a fire ladder on the property, it shall be eliminated in an environmentally sensitive manner.*
- *Development shall have adequate fire access.*
- *A dependable and adequate water supply for fire protection and suppression purposes, as required by the Santa Clara County Fire Department, shall be provided for all properties.*
- *Water for fire suppression shall be available and labeled before any framing may begin.*

The Hillside Development Standards and Guidelines also provide the following recommendations or guidelines for reducing fire hazards:

- *Development should avoid areas subject to severe fire danger. In order to achieve this, development should be set back from the crest of a hill, not be located on or adjacent to slopes greater than 30 percent, and not be located within densely wooded areas. If this is not possible, measures designed to assure the highest degree of fire prevention and fast effective means of evacuation and fire suppression shall be provided.*
- *The fuel load within a defensible space should be minimized by use of selective pruning, thinning and clearing as follows: removal of flammable species and debris, removal of dead, dying or hazardous trees, mow dead grasses, removal of dead wood from trees and shrubs, and thin tree crowns (maximum of 25 percent).*
- *Discontinuous fuel sources should be created and maintained within a defensible space through use of the following techniques: thin vegetation to form discontinuous groupings of trees or shrubs, limb trees up from the ground, and establish a separation between the lowest branches of a tree and any understory shrubs.*
- *Landscaping within a defensible space should be designed with fire safety in mind. Landscaping in defensible space should be: fire resistant and drought tolerant, predominantly low-growing shrubs and groundcovers (limit shrubs to 30 percent coverage), limited near foundations (height and density).*

The proposed landscape plan maintains a defensible space immediately around the residence with interlocking paver walkways and driveway. The building site is removed approximately 25 feet from the



oak woodland area above and north of the residence. Open and bare soil slopes occur to the east on the site, and Phillips Avenue bounds the site on the south. The landscape plan specifies the planting of toyon to the west of the residence, within 10 feet of the structure. The proposed plan appears to be consistent with the above standards and guidelines. However, as part of Architecture and Site review, the Town's staff (with input from the Fire Department) will review the proposed landscaping plan for consistency with *Hillside Development Standards and Guidelines*. In addition, to minimize fire hazards, the Santa Clara County Fire Department will require an automatic fire sprinkler system in the proposed home.

## 9. Hydrology and Water Quality

Elevations on the project site range from a high of about 615 feet above mean sea level (MSL) on the northern perimeter of the property to a low of about 546 feet at the southeastern corner of the property. The site generally consists of a south-facing hillside that drains to a small drainage swale on the south side of Phillips Avenue. Storm runoff on the site consists primarily of minor sheet flows that drain to and across Phillips Avenue into the drainage swale on the south side of the street

**Groundwater Resources.** The JF Consulting geotechnical investigation for the project site indicates that no groundwater was encountered in two borings performed as part of the subsurface investigation. The borings reached a depth of 10 to 14 feet below the ground surface in the area of the proposed residence.

**Storm Drainage.** With site development, the project would construct approximately 6,327 s.f. of impervious surface area on the 1.45-acre property. Impervious surfaces for the residence, patio, walkways, driveway, and hardscape would constitute approximately 10 percent of the site. The project plans include a range of on-site drainage facilities that provide for the collection and disposal of storm runoff from the subject property. The drainage plans for the proposed residence indicate that runoff from impervious surfaces such as roofs and patios would be collected and directed into PVC storm drain lines around the proposed residence. Collected runoff would be conveyed to the southeast side of the project site and discharged to trench-type and bubble up dissipators for on-site percolation.

The Town of Los Gatos is a co-permittee under the National Pollution Discharge Elimination System (NPDES) permit program implemented by the California Regional Water Quality Control Board for the San Francisco Bay Region. The Municipal Regional Permit (MRP) was adopted in October 2009 (amended November 28, 2011) and governs discharges from municipal storm drains operated by 76 local government entities, including those in Los Gatos. Under the MRP, NPDES compliance was recently extended to Small Projects that meet certain criteria for regulation. Small Projects are projects that are subject to approval and/or permits and that create and/or replace 2,500 sq. ft. but less than 10,000 sq. ft. of impervious surface, and single family detached homes that create and/or replace 2,500 s.f. or more of impervious surface (per MRP Provision C3ii).

An impervious surface is a surface covering or pavement that prevents the land's natural ability to absorb and infiltrate rainfall/stormwater. Impervious surfaces include, but are not limited to rooftops, walkways, paved patios, driveways, parking lots, storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering. Pervious pavement, underlain with pervious soil or pervious storage material (e.g., drain rock), that infiltrates rainfall at a rate equal to or greater than surrounding unpaved areas OR that stores and infiltrates the water quality design volume specified in Provision C.3.d of the MRP, is not considered an impervious surface.

As part of the NPDES permit program, the Town will require the proposed project to implement at least one of six specified Low Impact Development (LID) Site Design measures. These include the following measures:

- Direct roof runoff into cisterns or rain barrels for reuse;
- Direct roof runoff onto vegetated areas;



- Direct runoff from sidewalks, walkways, and/or patios onto vegetated areas;
- Direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- Construct sidewalks, walkways, and/or patios with permeable surfaces;
- Construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The project's storm drainage design proposes to incorporate one or more of these measures to ensure the control and retention of storm runoff on the project site and preclude increased, untreated runoff discharges to the Town's municipal storm drain systems. Consequently, generation of increased storm runoff by the project would have a less-than-significant impact.

**Water Quality.** New, more stringent water quality regulations of the Clean Water Act have recently been triggered because has failed to protect beneficial uses of Santa Clara County's creeks and the South San Francisco Bay. Evidence includes violations of ambient water quality criteria, high concentrations of toxic substances, and fish consumption health advisories.

The NPDES permit program requires that all discharges comply with Provision C.3, New and Redevelopment Performance Standards of Order No. R2-2009-0074 of the NPDES permit program. Provision C.3 in the MRP requires site designs for new developments and redevelopments to minimize the area of new roofs and paving. Where feasible, pervious surfaces should be used instead of paving so that runoff can infiltrate to the underlying soil. Remaining runoff from impervious areas must be captured and used or treated using bioretention. In some developments, the rates and durations of site runoff must also be controlled. In addition, project applicants must execute agreements to allow municipalities to verify that stormwater treatment and flow-control facilities are maintained in perpetuity.

As described above, the Town requires stormwater treatment measures for all Small Projects that meet the C.3 criteria under MRP Provision C.3.ii. The proposed project would create 6,327 s.f. of impervious surfaces and would therefore be subject to the new provisions for stormwater controls for runoff generated by single-family detached homes. The incorporation of stormwater treatment measures as required by the Town as a condition of project approval would reduce the project's potential effects on stormwater quality to a less-than-significant level.

With regard to project construction activities, the C.3 requirements are separate from, and in addition to, requirements for erosion and sediment control and for pollution prevention measures during construction. Uncontrolled urban runoff from construction sites can significantly impact the water quality of local streams and creeks. These water quality impacts, which are usually seen as excessive erosion and sedimentation, must be controlled in accordance with the Program's NPDES permit.

For project construction activities, projects which disturb one or more acres of soil or projects which disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 99-08-DWQ). Construction activity subject to this permit includes clearing, grading and disturbances to the ground (e.g., stockpiling or excavation). The permit does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The proposed project would disturb less than one acre of soil and is not part of a larger common plan of development. Construction activities for the proposed project would not be subject to the provisions of the Construction General Permit.

As required by the Town, the project design includes an erosion control plan that provides for: 1) a stabilized construction entrance/exit; 2) storm drain inlet protection; 3) building pad protection; 4) installation of fiber rolls; and 5) hydroseeding of disturbed areas. These measures are subject to review and approval by the Town to ensure appropriate control of potential erosion due to construction on the



site. Consequently, the proposed project would have a less-than-significant effect on the quality of stormwater runoff.

**Flood Hazards.** The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM) for the Town of Los Gatos indicate that the project site is located in Zone X and not within the 100-year floodplain as defined by the FIRM for the project area. Zone X denotes those areas of 0.2% annual chance flood, areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 1% annual chance floods.

## 10. Land Use and Planning

The proposed project would be consistent with the existing General Plan designation of “Hillside Residential, 0 - 1 units per acre.” This designation allows for residential uses at densities of up to 1 unit per acre. The proposed residence would be developed on a 1.45-acre site, which is within allowable densities. The project site is zoned HR-1, which limits density to one unit for every 1 to 5 acres. Since the proposed home would be located on a 1.45-acre project site, the project is consistent with existing zoning.

The project site is located adjacent to single-family residential uses. Access is from Phillips Avenue, which provides access to adjacent residences. The project parcel is undeveloped and located adjacent to developed residential lots to the north, south, and east. The proposed single-family residential use is consistent with existing adjacent single-family residences on Phillips Avenue and would not divide an established community nor pose any land use compatibility concerns.

The Los Gatos General Plan does not identify any habitat conservation plans or natural community conservation plans that apply to the project site.

## 11. Mineral Resources

The Los Gatos General Plan does not identify any regionally or locally-important mineral resources on the project site or in its vicinity.

## 12. Noise

**Noise Compatibility of Proposed Uses.** The project site’s noise environment at the project site can be characterized as a quiet, rural noise environment with no major noise sources. Therefore, noise compatibility would not be an issue (no impact).

**Groundborne Noise and Vibration.** Since construction of project facilities would not involve the use of impact equipment (i.e. pile drivers) or construction of subsurface facilities (i.e. tunnels), generation of substantial construction-related groundborne vibration and noise levels would not occur. Since the closest residences are located 150 or more feet away, construction-related vibration from operation of construction equipment is not expected to cause any cosmetic or architectural damage to any adjacent structures. Therefore, potential groundborne noise and vibration generated by project-related construction activities would be less than significant.

**Long-term Noise Increases.** Long-term noise increases associated with the proposed single-family residence would result from increased traffic along local roadways and residential activities on the project site (i.e., operation of appliances and maintenance equipment such as lawnmowers, blowers, etc.). Traffic increases associated with the project would be minor and would not significantly or measurably increase ambient noise levels in the project vicinity. Noise generated by project residential activities would be similar to noise generated by adjacent or nearby residences and would not conflict with the existing



residential noise environment in the neighborhood. Therefore, long-term noise increases associated with project implementation would be less than significant.

**Short-Term Noise Increases.** The Town Noise Ordinance (Chapter 16) restricts construction activities to the hours of 8:00 a.m. to 8:00 p.m. on weekdays and 9:00 a.m. to 7:00 p.m. on weekends and holidays. This ordinance also limits noise generation to 85 dBA at the property line or 85 dBA at 25 feet. Project construction would result in temporary short-term noise increases due to the operation of heavy equipment. Construction noise sources range from about 82 to 90 dBA at 25 feet for most types of construction equipment, and slightly higher levels of about 94 to 97 dBA at 25 feet for certain types of earthmoving and impact equipment. If noise controls are installed on construction equipment, the noise levels could be reduced to 80 to 85 dBA at 25 feet, depending on the type of equipment. With controls, construction noise levels could be made to comply with the Town Noise Ordinance.

Residential uses are generally considered to be noise-sensitive uses or sensitive receptors. The closest single-family homes are located approximately 150 to 200 feet to the northwest, north, east, southeast, south, and southwest. At 150 to 200 feet, the ordinance noise limit (85 dBA at 25 feet) would result in maximum noise levels of 67 to 70 dBA at these residences. Temporary disturbance (e.g., speech interference) can occur if the noise level in the interior of a building exceeds 45 to 60 dBA.<sup>6</sup> To maintain such interior noise levels, exterior noise levels at the closest residences (with windows closed) should not exceed 70 to 80 dBA and this exterior noise level is used as a significance threshold. Therefore, with compliance with the Noise Ordinance limit of 85 dBA at 25 feet, construction noise levels are not expected to result in speech interference effects when heavy equipment is operated in the vicinity of the proposed home site. Residences to the east and southeast could be subject to a temporary noise increase during extension of utilities along the southern project boundary. However, due to the small size of this project and short duration of construction, such a temporary impact is considered to be less than significant with enforcement of time restrictions and noise level standards specified in the Town Noise Ordinance.

**Airport-Related Issues.** The project site is not located within an airport land use plan. There is no public airport, public use airport, or private airstrip located within the Town's boundaries or within two miles of the project site. For air travel, the closest international airports are San Jose International Airport (SJC), San Francisco International Airport (SFO), and Oakland International Airport. The proposed project would not expose people residing or working in the area to excessive airport-related noise levels. Therefore, there would be no impact.

### 13. Population and Housing

The proposed project would consist of one single-family residence on one parcel, and would not result in intensification of residential uses or significantly increase local or regional population. Since the project would not extend new roadways or utilities to any adjacent undeveloped lands, the project would not induce new growth. The project site is currently undeveloped and no existing housing units would be displaced by the project.

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<sup>6</sup> In indoor noise environments, the highest noise level that permits relaxed conversation with 100 percent intelligibility throughout the room is 45 dBA. Speech interference is considered to become intolerable when normal conversation is precluded at 3 feet, which occurs when background noise levels exceed 60 dBA (U.S. Environmental Protection Agency, *Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety (Condensed Version)*, 1974).



## 14. Public Services

Services are currently provided to residential uses surrounding the project site. The Los Gatos Police Department and the Santa Clara County Fire Department provide emergency and public safety services in the project area. The project would not significantly increase demand for public services since this is an in-fill development and services are already provided to the surrounding area.

The Santa Clara County Fire Department reviewed the proposed site plan, and indicated the project site is located within the designated Wildland-Urban Interface Fire Area. Given its location, the Fire Department will require provision of an automatic fire sprinkler system in the proposed home, and with such a system the Fire Department has determined that required adjusted fire flow is available from area water mains and fire hydrants, which are spaced at the required spacing. The Department also will require provision of an access driveway that meets Fire Department standards.

## 15. Recreational Facilities

The proposed addition of one residential unit would incrementally add new population to the area, and thereby increase the demand for recreational services. This incremental increase would be less than significant given the small size of the project.

## 16. Transportation/Traffic

The Town's Traffic Impact Policy (Resolution 1991-174) specifies that a project with a traffic impact of 19 or less additional AM or PM peak hour trips could be approved without a comprehensive traffic report if it is determined that the benefits of the project to the Town would outweigh the impact of increased traffic. The proposed single-family residence would result in a net increase of 10 trips per day, with 1 trip occurring during the AM peak hour and 1 trip occurring during the PM peak hour. According to the Town's traffic determination, traffic generated by the proposed project would represent a minor impact on the circulation system and would not conflict with the Congestion Management Program. No additional traffic studies would be required by the Town. However, the project would be subject to payment of a traffic mitigation fee in accordance with the TIF Ordinance.

The project site is not located in the vicinity of an airport and the project would not affect air traffic levels or cause any safety risks associated with air traffic patterns.

There are no transit facilities in the project area. Given the project's distant location from the nearest transit facilities and its small size, the project would have no impact on or conflict with alternative transportation modes.

**Traffic Safety Hazards.** To accommodate the proposed house and driveway, a net total 1,803 c.y. would be excavated and hauled from the site (1,805 c.y. of cut and 2 c.y. of fill). Export of 1,803 cy of material off-site could generate up to 150 truckloads or a total of 300 one-way truck trips (assuming 12 cy per haul truck). Since the Town will prohibit haul truck operations on local roads between 7 a.m. and 9 a.m. as well as 4 p.m. and 6 p.m., trucks operations would occur 6.5 hours per day. Assuming approximately four trucks could be filled per hour, the 150 truckloads or 300 truck trips would occur over a 5.75-day period. If hourly truck volumes were lower, then duration of haul truck operations on Phillips Avenue and Kennedy Road would be longer.

As a condition of project approval, the project applicant will be required to work with the Engineering Division of the Parks and Public Works Department to devise a traffic control plan for incorporation into the construction bid documents (specifications) to ensure safe and efficient traffic flow during periods when soil is hauled on or off the project site. The plan shall include, but not be limited to, the following measures:



- Hauling and delivery activities and designated truck routes shall be strategically selected, timed and coordinated to minimize traffic disruption to schools, residents, businesses, special events, and other projects in the area. The schools located on the haul route shall be contacted to help with the coordination of the trucking operation to minimize traffic disruption.
- Flag persons shall be placed at locations as necessary. All flag persons shall have the capability of communicating with each other to coordinate the operation.
- Prior to construction, advance notification of all affected residents and emergency services shall be made regarding one-way operation, specifying dates and hours of operation.
- Hauling of soil on or off-site shall not occur during the morning or evening peak periods (between 7:00 a.m. and 9:00 a.m. and between 2:00 p.m. and 6:00 p.m.).

With implementation of this condition of approval, potential safety hazards during project construction would be less than significant.

**Emergency Access.** The project site is presently accessible from Loma Alta Avenue, Cypress Way, and Kennedy Road. With access available from the west and north, there is currently adequate emergency access and the proposed project would have no impact on emergency access.

## **17. Utilities and Service Systems**

Utilities and services are currently provided to residential uses on adjacent properties. Since this project would be an in-fill development, most off-site utility improvements are relatively close to the project site and will not require extensive off-site work. Utilities (water, sewer, gas, and telephone) would connect with existing facilities located in Phillips Avenue and extend to the proposed home. However, natural gas service to the project site would require a 200-foot extension of a gas main in Phillips Avenue. Proposed storm drainage facilities are discussed in Section 9, Hydrology and Water Quality.